IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

MARC VEASEY, *et al.*, Plaintiffs, v. RICK PERRY, *et al.*, Defendants.	Civil Action No. 2:13-cv-193 (NGR)
UNITED STATES OF AMERICA, Plaintiff, TEXAS LEAGUE OF YOUNG VOTERS EDUCATION FUND, *et al.*, Plaintiff-Intervenors, TEXAS ASSOCIATION OF HISPANIC COUNTY JUDGES AND COUNTY COMMISSIONERS, *et al.*, Plaintiff-Intervenors, v. STATE OF TEXAS, *et al.*, Defendants.	Civil Action No. 2:13-cv-263 (NGR)

TEXAS STATE CONFERENCE OF NAACP BRANCHES, *et al.*, Plaintiffs, v. NANDITA BERRY, *et al.*, Defendants.	Civil Action No. 2:13-cv-291 (NGR)
BELINDA ORTIZ, *et al.*, Plaintiffs, v. STATE OF TEXAS, *et al.*, Defendants	Civil Action No. 2:13-cv-348 (NGR)

JOINT OPPOSITION OF PRIVATE PLAINTIFFS AND PLAINTIFF-INTERVENORS[1] TO TEXAS' MOTION TO COMPEL THE PRODUCTION OF FEDERAL DATABASES

Texas' Motion to Compel the Production of the Federal Databases, ECF No. 324, has no legitimate basis and is contrary to Texas' earlier agreement about those databases, as explained below in paragraph 2. The motion has no purpose other than to jeopardize this Court's September 2nd trial date.

[1] The Plaintiffs joining in this brief are the Texas State Conference of NAACP Branches, the Mexican American Legislative Caucus of the Texas House of Representatives, the Texas Association of Hispanic County Judges and County Commissioners, Hidalgo County, the Texas League of Young Voters Education Fund, Imani Clark, Estela Garcia Espinosa, Lionel Estrada, Roxsanne Hernandez, La Union Del Pueblo Entero, Inc., Lydia Lara, Margarito Martinez Lara, Maximina Martinez Lara, Eulalio Mendez, Jr., Belinda Ortiz, Lenard Taylor, Marc Veasey, Floyd James Carrier, Anna Burns, Michael Montez, Penny Pope, Jane Hamilton, Sergio DeLeon, Oscar Ortiz, Koby Ozias, John Mellor-Crummey, Jane Doe, James Doe, the League of United Latin American Citizens ("LULAC") and Dallas County, Texas.

1. Texas' motion seeks to compel the production of hundreds of millions of highly sensitive records of the Departments of State, Defense, Homeland Security, and Veterans Affairs, and the Social Security Administration, covering nearly every American citizen. The United States will respond in more detail about these records, including the substantial legal protections they are accorded to ensure confidentiality and privacy, but suffice it to say here that the request for the federal databases is extreme and pointless (as explained briefly below).

2. The sole purpose of providing some limited access to the federal databases has already been achieved. That purpose was to determine the number of Texas registered voters who have been issued a photo ID specified in S.B. 14 (and the number who may qualify for the limited exception under S.B. 14 based on disability). Pursuant to agreements among the parties, the Texas registered voter list was matched against the ID databases of federal agencies that issue relevant photo ID (and the relevant federal disability databases); in addition, the registration list was matched against the Texas DPS ID databases. In the case of the federal agencies, this matching was performed as follows: the agencies were supplied with the matching algorithms (created by the Justice Department with private plaintiffs' assent and by Texas) and with the registered voter records, and the agencies then conducted the matching process; no party was allowed access to the federal agency databases, not even the Department of Justice. After this lengthy process, the results came back and were produced to all parties on May 30. The process will not be repeated, at any party's behest, and there will be no further access by anyone to the federal agency databases. There is thus no conceivable reason for any party to now seek production of the federal databases.

3. Nor does Texas offer any reason why it should specially gain access to federal databases, saying merely that litigants do not have to give reasons for their discovery requests. But this request is so clearly irrelevant or duplicative (since the matching results have been provided to all parties) and so excessive, that Texas' request fails to meet the basic requirements of Rule 26.[2]

4. Texas attempts a "tit-for-tat" argument that it should have the federal databases because the private plaintiffs received the voter registration records. *See* ECF No. 321. The major problem is that the two issues have nothing to do with each other. The federal databases were needed to determine which voters have been issued the necessary photo ID (or qualify for the disability exception), and that review is now complete. The voter registration records are now needed to analyze the types and categories of non-matched voters. This information, critical for each party in this case, was already available to the United States *and Texas*, and providing that information to the private plaintiffs merely allows them to perform the same types of analysis.

5. In addition to the fact that there is no connection between providing the voter records to the private plaintiffs and Texas' claim that it should get the federal databases, Texas' statement that it never agreed that private plaintiffs could have the voter records is simply not so. Texas expressly agreed that the "algorithm responses" to be produced to all parties would include the matching results and also "the extract of the Texas Election Administration Management System database produced by the Defendants to the United States" (except that Social Security numbers would be redacted

[2] Rule 26(b)(1) limits discovery to relevant information; Rule 26(b)(2)(B) precludes discovery of electronically stored information that is "not reasonably accessible because of undue burden or cost"; and Rule 26(b)(2)(C) prohibits discovery that is "unreasonably cumulative or duplicative" or unduly burdensome.

to their final four digits). ECF No. 160-1 ¶ 13. Although that specific agreement was ultimately not entered as a court order (for unrelated reasons),[3] the Order that was subsequently entered regarding the matching process carried forward the agreement that private plaintiffs would be provided with the voter registration data. ECF No. 174 ¶ 2 ("certain information from the Texas Election Administration Management System database will be provided to other parties in these consolidated cases at the conclusion of the database comparison process . . . ."). Accordingly, in its ruling that the voter data must be produced to the private plaintiffs, ECF No. 321, this Court found that "such action is consistent with . . . ECF No. 174 . . . ."

For these reasons, Texas' motion should be denied.

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Respectfully submitted,

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[3] When ECF 160-1 was jointly moved by Texas and the United States for entry by this Court, the Veasey-LULAC plaintiffs expressed concern about the length of time allowed for the matching process to be concluded. This disagreement was resolved, and a somewhat more abbreviated agreement regarding matching was entered. *See* ECF No. 174.

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CERTIFICATE OF SERVICE

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